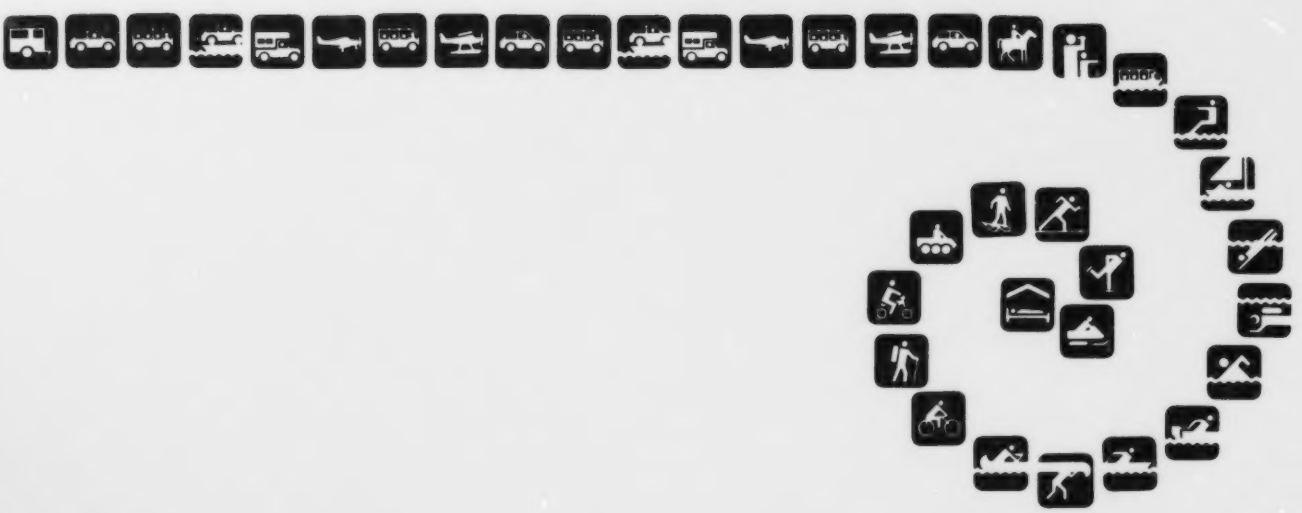

# POLICY FOR
# PRIVATE SECTOR DEVELOPMENT
# IN PROVINCIAL PARKS

Planning and Development
Department of Tourism
March 23, 1984

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# 1. BACKGROUND

## 1.1 Need for Policy

Since the beginning of the provincial park system in the mid-thirties with the creation of Glenwood Provincial Park, the system has grown significantly, changing with the times. Now, more than just a number of road-side rest areas, the system comprises several classes of parks offering a variety of attractions and facilities. The range of recreational pursuits which are offered in provincial parks has similarly grown over the years as has the involvement of the private sector in providing these facilities within provincial parks.

Recently several factors have come together highlighting the need to review at this time the provision of opportunities by the private sector within provincial parks.

Firstly, an increased need for fiscal restraint has placed limits on the growth of publicly provided recreational facilities. This has lead to bqth a greater concern with cost recovery of government provided services and to more frequent use of private sector entrepreneurs in the operation or development of facilities within parks. Traditionally private sector involvement had tended to be in the provision of canteen facilities.

Secondly, provincial parks, by their very nature have been located in areas offering the best potential for outdoor recreational development. Accordingly, private sector investments have been encouraged and supported nearby due to the existence of parks. Mactaquac and Parlee Beach are two prime examples and there would appear to be a growing recognition by the private sector of the desirability of locating close to or, if possible, within provincial park boundaries.

Thirdly, changes in travel patterns have emphasized the concept of destination areas and the clustering of attractions. This has increased even more the advantages associated with selected provincial parks as a consequence of their location and/or previous government investment in facilities.

Fourthly, other changes in the marketplace indicate a growing interest in recreational pursuits, both traditional and new, and also the growing importance of special interest markets with the associated potential to use provincial parks to satisfy these varied interests.

Fifthly, and likely as a result of the preceeding factors, the private sector is now bringing forward a number of proposals for a variety of new recreational facilities they would seek approval to develop within provincial parks. Recent years have seen the widening of the type of facilities operated by the private sector within provincial park boundaries in the absence of a comphrensive and considered policy governing such development.

Accordingly, the need arose for the establishment of a policy relating to the use of provincial park land for recreational development. This need was recognized in the draft "Park System Plan for the Province of New Brunswick". Recommendation #5 of that plan is:

> "that a comprehensive policy on recreation in provincial parks be created in keeping with the Department's dual mandate. This is a long term recommendation".*1

*1 Park System Plan for Provincial Parks in the Province of New Brunswick, Second Draft, Tourism New Brunswick, July 1983, page 3 of recommendations.

This paper constitutes in part the carrying out of that recommendation analysing the issues and offering an accepted policy given the time allotted for its development.

## 1.2 Benefits of Policy

The benefits which will be derived from a policy which encourages controlled development of a wider range of recreational facilities and services by the private sector within provincial parks are numerous and varied. Indeed, the impacts are so widespread and open to contemplation that they are impossible to quantify at this stage.

Such a policy permits the development of recreational attractions and activities which would not have existed otherwise in the light of limited government budgets. The social benefits to be derived are one of the bases of the Department's objectives.

Beyond the additional recreational amenities that are available for the enjoyment of New Brunswick citizens, these new facilities would increase the drawing and holding power of provincial parks as tourist attractions. The resulting expenditures by visitors will stimulate the economy boosting both private sector and government revenues. For the government this will come in the form of increased sales and other taxes associated with increased expenditures, new income tax from the additional employment required by the new facilities, additional concession/land rental fees and extra park fee revenues resulting from greater use and occupancy of existing park facilities.

The impact on reducing net debt does not stop with increased government revenues. To the extent that operations of provincially owned facilities are transferred to the private sector, the net loss associated with their operation can be eliminated or transferred into a positive cash flow for the province.

Lastly, and perhaps most importantly, are the additional jobs which will be associated directly and indirectly with newly created facilities. The creation of these jobs and incomes will contribute greatly towards the achievement of economic objectives which become crucially important in times of high unemployment.

## 1.3 Drawbacks of Policy

A policy which encourages private sector investment on park land is not without its drawbacks. The development of new types of facilities in parks will change the nature of parks. Once development starts, where does it stop? Unless controlled, there is a danger that 'Coney Island' type development would take over a park destroying its initial reason for esistence.

Despite the best intentions never to allow such a situation to materialize, any move favouring a wider range of recreational facilities and support services is a move away from the original intent of creating parks. To many people, parks have strong, traditional connotations as natural, passive, quiet and undeveloped areas and the result of construction is the destruction of social (and economic) benefits which parks now generate. Certain developments may place an obligation on government to seek public input as to whether it should be allowed.

Notwithstanding the basic conflict as to what should be in a provincial park, the development of private sector facilities on park land has other implications. Planning is complicated since provision has to be made for the ultimate removal of the facilities at the end of their useful lifetime in a way so as not to disrupt operations or limit future land use. The maintenance of standards near the end of an agreement could also pose problems. Lastly, the danger of failure and pressure on government to take over or continue a service has been a consideration in the development of this policy.

## 2. OBJECTIVES

### 2.1 Overall Provincial Land Use Policy

In November of 1982 a proposed land use policy and report was prepared for the Cabinet Committee of Economic Development. This report, entitled "Land Use Policy: A Positive Approach", examined government wide land use policies and programs and several of its conclusions and recommendations were relevant to the development of this recreational land use policy. Although the overall provincial land use policy has yet to be accepted, this policy on recreational land use was written to be consistent with the overall policy report. Some of the thoughts expressed in that report can be considered as objectives underlying this policy even though they may not be formally stated as objectives.

> "Land use is what we do with our land. Productive land use provides jobs and security."*2

Land can be used in many ways thus producing conflicts as to its use. Consistent with both the economic development and recreational objectives of the Department of Tourism this policy has been guided by the principle that land should be put to its most productive use according to its unique characteristics.

*2 Land Use Policy: A positive Approach, Report of the Land Use Policy Task Force, November 1982, page i.

"Maximizing production from the land, however, while it could greatly strengthen the economy and provide jobs and social benefits, may conflict with other desires of the people such as to leave their land in its natural state..*3

Although as this report will later demonstrate that just such a conflict exists regarding provincial park land use, this policy takes the position that provincial park land has potential for increased production in regards to recreational pursuits and in the provision of essential services for visitors.

The report of the land use policy task force proposed a basic statement of intent be adopted in order to clearly establish the direction for land use policy. That statement is so fundamental that it forms an underlying principle and objective of this recreational land use policy. It is reproduced below and a detailed explanation excerpted from "Land Use Policy: A Positive Approach" is attached as ANNEX A to this paper.

STATEMENT OF INTENT

"THE LAND RESOURCES OF NEW BRUNSWICK SHOULD BE USED TO PROVIDE THE MAXIMUM SOCIAL AND ECONOMIC BENEFITS TO THE PEOPLE OF NEW BRUNSWICK ON A CONTINUING BASIS."*4

*3 Ibid, page 18

*4 Ibid, page 27

## 2.2 Tourism Mandate and Objectives

The mandate and objectives which guide the Department of Tourism are in total agreement with the preceeding statement of intent in that they contain this dual (economic and social) orientation.

The Department's mandate is:

> "To assist and encourage the orderly development of the provincial tourism industry for the economic and social benefits of New Brunswick citizens".
>
> "To derive the maximum in economic benefits from the tourism industry by the creation of employment and income opportunities for the people of New Brunswick".
>
> "To provide a system of provincial parks in sufficient quantity and quality primarily for residents of the Province and others who wish to use them".*5

It should be noted that although the latter two statements appear to be oriented respectively towards economic and social benefits, provincial parks are not exclusively social in nature and have a role to play in the fulfillment of the mandate's economic aspect. This is recognized in both the "Tourist Sector Strategy" and the draft "Park System Plan" the latter of which notes that, whereas the majority of park campground users are non-residents, the parks are obviously playing an economic role. This recreation land use policy accepts the dual economic and social role of parks.

*5 Mandate, Goals, Program Objectives and Organization, Tourism New Brunswick, September 30, 1983, page 1.

The draft Park System Plan goes on to state that "Future management of the system and any future expansion must be oriented towards the tourist traffic which already forms a significant part of park camping visitation as well as to assuring that the distribution of park units gives adequate service to New Brunswick residents"*6 Thus this recreation land use policy also recognizes that the recreational amenities which might be developed are intended for both residents and non-residents of New Brunswick. This direction is entirely consistent with the more detailed objective of the Department, related specifically to provincial parks; which is:

> "To provide certain forms of outdoor recreation facilities and services within provincial parks in sufficient quality and quantity and with reasonable accessibility assured for each region in New Brunswick."*7

This objective has several implications for the recreation land use policy. First the term "to provide" obviously does not limit the Department to direct provision but allows for the use of concessions and other agreements with the private sector to provide the facilities and services. Secondly, the phrase "certain forms" does not specify what types of facilities and services, although the effect of "outdoor recreation" is to steer its application towards more traditional park associated types of activities. The next chapter addresses these questions of <u>how</u> and <u>what</u> recreational uses will be permitted and encouraged by the policy.

*6 Park System Plan, page 6

*7 Mandate, Goals, Program Objectives and Organization, page 2

## 3. FRAMEWORK AND ANALYSIS

### 3.1 Types of Agreements Considered

Although the majority of recreational facilities in provincial parks continue to be provided and operated by the Department of Tourism, a principle reason for this policy is to guide the increasing use of the private sector to provide these services. Accordingly, several forms of agreements were examined to identify the best form of how the private sector should develop and operate recreational facilities and services on provincial park property.

These included, in descending order of preference;

- concessions
- management contracts
- conditional conveyance
- leases, and
- private sector ownership

Concessions are the only form of such agreements which have been used to any extent by the Department. A discussion of existing concessions follows in Section 3.6. Although no standard concession agreement exists, sufficient commonality is possible to balance fair and equitable treatment with the flexibility to adapt to particular situations. In fact the flexibility of concessions is its strongest point in that it allows the Department to exercise as much control as it desires while also allowing for private ownership of facilities on park lands.

Management contracts involve engaging a private entrepreneur to operate a facility for a fixed price contract. As discussed in the "Park System Plan" a management contract "may be desirable to minimize departmental losses on a park operation that is still required but with no potential for profit."*8 (as a concession).

*8 Park System Plan, page 76

Leases, conditional conveyances and private sector ownership all have the disadvantage of transferring more control to the private sector than concessions or management contracts. A lease is a contract by which one conveys real estate to another for a specified period of time. A conditional conveyance suggests the transfer of property subject to certain conditions usually with the understanding that the property would be returned if conditions are not met. Private sector ownership could involve either the right given by a public authority to a person or company to locate certain facilities on park land or the outright sale of the park to the private sector. Since an underlying assumption is that the Department would wish to retain ownership and control over the use of park lands this policy suggests these latter measures only be used where closure or sale of a park is the ultimate, intended outcome.

Otherwise this policy recommends the continued use of concessions as the principle tool of controlling private sector development and operation of recreational facilities and services in provincial parks. This policy is consistent with the Park System Plan and its recommendations. In particular, reference should be made to Section 9.10 and recommendations 24 through 27 of the Plan, these recommendations of which have been attached as ANNEX B.

It should be noted that this recreational land use policy does not fulfill recommendation #24 which calls for the production of a detailed policy and procedures document covering the selection of concession locations and the management of concessions. Such a document still needs to be produced.

3.2 Geographic Coverage

This policy is only concerned with the provision of recreational facilities within provincial park boundaries. Such a statement would seem to be obvious yet requires some explanation. As will be outlined in Section 3.3 the Parks Act is the authority under which the Minister can provide for these recreational facilities and, under this Act a provincial park is defined in terms of an area of land established and maintained under the Act. Not all the property owned by the Department of Tourism has been established as a provincial park nor has, in some instances, all the land commonly thought to be part of a provincial park been so designated under the Act. Accordingly, it is important that in future, and even existing, concession agreements it be verified that the land under consideration meets the requirements of the Parks Act so that it will fall with the application of this policy.

3.3 Parks Act

The Parks Act forms the framework and legal authority for the implementation of this policy. It does so in two parts; first, by defining a provincial park, and subsequently in Sections 3(2) and 8(2) by providing for authorization to the Minister to construct and operate recreational facilities or to contract with others to do the same.

Beyond the legal authority, the Act provides guidance in the types of recreational pursuits which will be permitted under this policy. Section 2 dedicates all provincial parks:

> "to the people of the Province and others who may use them for their healthful enjoyment and education, and subject to subsection 3(2), the provincial parks shall be maintained for the benefit of future generations in accordance with this Act and the regulations". *9

*9 Parks Act, Province of New Brunswick, Section 2

The use of the terms "healthful enjoyment," "education" and "maintained for the benefit of future generations" all imply limits on the degree to which amusement park type activities might be considered to be appropriate in a provincial park.

Further Section 8(2) lists a variety of services and facilities to be permitted in provincial parks. This list (see ANNEX C), is comprised of types of facilities traditionally associated with provincial parks. Nonetheless 8(2)(f) provides the Minister with freedom to "construct and operate recreation facilities he considers necessary for the convenience or benefit of the public". Moreover, recent years have seen an expansion of the variety of recreational activities which can be pursued in provincial parks and there is pressure for further expansion.

When this situation is examined in the context of the hierarchy of parks which exist within the Province, it is apparent that the role of provincial parks falls between the two extremes of national and private/municipal parks. The role of provincial parks is neither simply one of preservation nor of amusement yet it encompasses each of these to some degree. Reference may be made to both the "Tourist Sector Strategy" and to the draft "Park System Plan" for a fuller discussion of this approach.

The problem then is one of walking a middle ground; of satisfying the growing pressure for additional and more varied recreational facilities in parks while still maintaining the parks for future generations to enjoy. The answer to this problem lies in the classification and zoning of provincial parks.

3.4 Park Classification and Zoning

There are several types of provincial parks provided for under the Parks Act and these classifications are described in ANNEX D. They range from full facility recreation parks to road side picnic areas and are differentiated by the main function of the particular park. Although not all classes are represented by existing parks, it is apparent from an examination of the present system that the classes fall into two general groups; with picnic grounds (come road side rest areas) a separate entity.

| Recreation Oriented | Nature Oriented |
|---|---|
| recreation parks | campground parks |
| beach parks | wildlife parks |
| | resource parks |
| | marine parks |

It follows that in the provision of recreational facilities especially of the type not traditionally associated with parks, they should be directed towards recreation or beach parks while the other classes should be kept more "natural".

In addition, the use of zoning within parks, through park master and development plans, provides another element of planning and control which should allow both extremes be satisfied without adversely affecting the enjoyment of the other group.

However, if this policy is to be implemented on the basis of classifications and zoning (or individual park plans), at least two requirements will have to be met. Firstly, as noted in the "Park System Plan" the classification system "is strictly internal to the park system and would appear to be used very little in a practical sense". *10 Yet the Plan goes on to suggest several very practical uses (ANNEX E) for such classifications in addition to which they form the basis for implementing this recreation land use policy. Therefore it is important that recommendation 9 of the Park System

*10 Park Plan System

Plan calling for a review of the present classification system and its application to existing parks be undertaken.

Secondly, it is apparent that additional planning will be required for individual parks so that "areas" of different, non-conflicting uses will be identified in advance of specific proposals for development. While master and development plans exist for many parks they do not exist in all cases. In only one instance is a park actually zoned although the small size and single purpose nature of many parks precludes the need for zoning within every park.

3.5 Ontario Approach

The Province of Ontario has recently developed a "Proposed Commercial Tourism Services Policy for Ontario Provincial Parks". The policy provides for differing degrees of commercial activity according to park classes and zones within parks much as is outlined in the previous section. Although the Ontario situation is somewhat different in terms of classification and ability to zone within parks, the principles still apply. In fact, as will be seen in Section 3.6, a logical differentiation of services already exists in New Brunswick parks for the most part.

3.6 Review of Existing Agreements

Any policy which is to guide the development of recreational facilities by the private sector on provincial park land must either reflect existing agreements or provide for their modification to conform to the new policy. Accordingly the wide variety of agreements, existing and some proposed, in New Brunswick were reviewed. ANNEX F graphically depicts the location and types of services provided by the private sector according to the park and its classification. ANNEX G highlights the relationships between park classifications and the types of services which are currently offered.

Services have been grouped into the following six types not all of which are currently provided by the private sector in provincial parks:

(1) Recreation, attraction
(2) Food services
(3) Accommodation
(4) Transportation
(5) Other tourist oriented
(6) Non-tourist oriented

As expected most of the agreements are to be found in recreation and beach parks and it is there that the widest range of services are available. This is consistent with the philosophical approach outlined in the earlier section on classifications and formed the basis for the policy to follow.

There is, however, a point which should be noted. The degree of development which has been allowed at Woolastook is such that this park can hardly be considered as a wildlife park any longer. In the proposed review of park classifications consideration should be given to reclassifying this park to the recreation category.

3.7 Approach of Policy

Annex H depicts the approach for the development of facilities by the private sector in provincial parks. It provides for a full range of services in recreation parks with less services and variety as one moves into the classes of parks emphasizing the nature resources aspect. In these instances facilities and services will be limited to satisfying basic needs. In the case of picnic grounds (rest areas) the only private sector services allowed will be controlled static displays.

Although this general framework will guide the provision of services by class of park the actual private sector developments which will be allowed in any park will also be a function of the individual plan established for that park.

3.8 Intent of Policy

It is the intent to this policy to entertain and support development of the private sector within provincial parks where such development;

1. meets the general purposes and philosophies of the park concerned
2. enhances the facilities already provided
3. are considered to be viably sound with the probability of successful development.

It is conversely the intent of this policy not to entertain developments that;

1. infer additional liability by the Province
2. fail to demonstrate good management capabilities.
3. fail to demonstrate acceptable maintenance and operations standards
4. require significant expenditures by the Province.
5. will detrimentally affect existing facilities within and outside the park concerned. (business).

# 4 CONCLUSIONS

## 4.1 Conclusions

As demonstrated in Section 1, there is a need for and significant benefits to be derived from a policy governing recreational developments by the private sector within provincial parks. Overall provincial land use policy and the mandate and objectives of the Department of Tourism formed the basis of the policy as outlined in Section 2. Further, the policy conforms to the framework established by the analysis of Section 3 of this paper.

It should be recognized, however, that no policy will answer all the questions. To quote from the report of the Land Use Policy Task Force:

> "In facing decisions involving conflicting land uses it would be helpful if guidelines were readily available saying 'This is more important than that.' In reality, however, each conflict has to be resolved individually and broad guidelines can only be of indirect help." *11

*11 Land Use Policy: A Positive Approach, page 24.

# POLICY FOR PRIVATE SECTOR DEVELOPMENT IN PROVINCIAL PARKS

It is the policy of the Government of New Brunswick to encourage the productive use of park land by the private sector to provide the maximum social and economic benefits to the people of New Brunswick on a continuing basis.

Private sector developments which are allowed will be complementary to the Department's mandate and objectives, the Parks Act , park classifications and zoning and individual park plans as well as conforming to the intent and approach outlined in the document "Policy for Private Sector Development in Provincial Parks".

Use of concession agreements will be the principle tool for implementing this policy and will specify, inter alia, what is to be developed by whom, where, under what conditions and for how long. Agreements will be standardized so far as possible consistent with requirements for flexibility. All agreements will address the ownership of the development at the termination of the agreement and in the case of prior default. In the case of new facilities, agreements which are tied to the life expectancy of the facility and provide for removal of the facilities by the private sector developer at the termination of the agreement are to be preferred over those which provide for public development or eventual ownership of the facility.

While encouraging private sector investment on provincial park land, it is the policy of the government not to subsidize such developments or their operations and any capital, operating or maintenance costs which are incurred by the Province as a result of the development will be passed on in full to the developer.

In consideration of being permitted to operate within a provincial park, private sector entrepreneurs will be charged a reasonable license fee and a percentage share of their gross revenues, the levels of which will be established by the concession or land rental agreement with the Province at fair market value. All agreements will provide for a performance bond.

Private sector ownership will be limited to the facilities constructed under the agreement and will not involve transfer of ownership of the land save those exceptional circumstances where it is in the interest of the Province to divest itself of a particular park on termination of the agreement.

It is the policy of the government to encourage private sector investment to meet recognized needs and to fill in service gaps and it is the policy not to allow such development when it will adversely affect the operation of existing facilities.

## 5. IMPLEMENTATION

Proposals or ideas for development within a provincial park may arise from the private sector or from the government. In either case, in order to ensure the fullest possible opportunity for participation by potential investors, implementation will be preceded by a public notice of intention to develop which may include or be followed by a call for proposals. Such a procedure will fairly allow everyone the chance to bring forth their ideas and proposals while offering the additional benefit of initial public input and reaction to the concept.

A Planning Review Committee which has been established within the Department of Tourism will play the central role in the implementation of the policy. All proposals or ideas for private sector developments in provincial parks will be reviewed by this committee and appropriate recommendations for action will be provided by the committee to the Deputy Minister of Tourism.

In its review the committee will assess the degree to which proposed developments are consistent with:

- the Department of Tourism's mandate and objectives
- the Parks Act and Regulations
- park classifications and zoning
- individual park plans
- public need and
- the policy for private sector development in provincial parks.

Public reaction which arises from the notice of intention to develop and/or the call for proposals will be a consideration as to whether to proceed with a development. Without limiting the action of the Planning Review Committee, the committee may recommend to the Deputy Minister proceeding with a proposal, not proceeding, or the undertaking of a public participation program where it is felt that additional guidance is desired from citizens of the Province regarding future development.

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ANNEXES

ANNEX A

EXCERPT FROM LAND USE POLICY: A POSITIVE APPROACH

## THE INTENT OF THE POLICY

In order to clearly establish the direction for the Land Use Policy it is proposed that the following be adopted as the Statement of Intent:

> THE LAND RESOURCES OF NEW BRUNSWICK SHOULD BE USED TO PROVIDE THE MAXIMUM SOCIAL AND ECONOMIC BENEFITS TO THE PEOPLE OF NEW BRUNSWICK ON A CONTINUING BASIS.

### Review of the Statement of Intent

A brief explanation of the considerations incorporated in this Statement follows, phrase by phrase.

"The Land Resources of New Brunswick..."

"The Land Resources' refers to the land itself, the water on it, and all the living things it does or can sustain. It includes the minerals and the water underground. It also includes the shape of the land - a mountain or a beautiful valley is a land resource also.

"...Should be Used to Provide..."

This goal is an active goal. The essence of it is that we should USE the Land for beneficial purpose. It requires a recognition of the utility of the Land, and the potential for greatly increased return from it in response to active utilization.

"... the Maximum Social and Economic Benefits..."

The benefits which can be attained fall into two groups, the so-called social benefits which are difficult to quantify and the economic benefits which are measurable in terms of dollars and jobs.

For example, the benefit obtained from recreation facilities is far greater than the economic return. In fact, the availability of recreation opportunities at very little cost is already a significant factor in New Brunswick's society.

However, even the preservation of a beautiful view for its own sake can produce some economic benefit and the specific exploitation of Land for purely economic gain for say, opencast mining, still provides social spin-off benefits.

In order to meet the goal in these cases it is necessary to consider how the economic benefits can be increased in one and in the other how the social benefits can be developed without significantly damaging the main opportunity, whether it is the view or the mine. This requires a shift from single purpose project planning to a multiple purpose approach. It is harder, costs a bit more but can, and has already in some cases in the Province such as Mactaquac, significantly increased the benefits from land resource projects.

"...To the People of New Brunswick..."

This policy is prepared for the Government of New Brunswick whose prime responsibility is for the people of the Province: that is those people living on the land within the borders of the Province and for their successors. The reference to them specifically does not imply that Canadians from other Provinces should not benefit from the use of our land resources but it does emphasize that New Brunswickers carry the responsibilities for, and can expect appropriate benefit from, the utilization of their land.

"...On a Continuing Basis..."

The final phrase of this statement of purpose is in many respects the most significant and most difficult. "On a continuing basis" refers to the need to avoid short term exploitation of our land, however beneficial now, if it will prevent beneficial use in the future. We may still have to build highways through farm land, but we shall first try and find a route where the land is of lower quality so that our important options are preserved for the future.

It has been said that we do not own the land, we hold it in trust for our children. The land can produce more now to help us bring up and educate our children but it must not be at the expense of significantly limiting their options.

ANNEX B

SELECTED RECOMMENDATIONS FROM PARK SYSTEM PLAN

RECOMMENDATION #24: That a detailed policy and procedures document be produced covering the selection of concession locations and management of concessions. This document should be public.

RECOMMENDATION #25: That, subsequent to a review of all existing service concession contracts, standard concession document packages be produced incorporating standard arrangements for administration and payment.

RECOMMENDATION #26: That the existing service concessions be expanded to include provision of recreational equipment and services such as bicycle, boat and canoe rentals where appropriate.

RECOMMENDATION #27: That the concept of contract operators of selected campgrounds be considered as an option to decrease operating deficits.

Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

1. In this Act

"boat" means a watercraft or other artificial contrivance used or capable of being used as a means of transportation on water, whether self-propelled or not;

"concession" means the right of any person granted by the Department to operate a provincial park or any building, installation, service or facility within a provincial park;

"Department" means the Department of Tourism;

"domestic animal" means any animal that is kept under human control or by habit or training lives in association with man;

"firearm" means any device from which any shot, bullet or other missile can be discharged and, without limiting the generality of the foregoing, includes a rifle, shotgun, pellet gun, air gun, pistol, revolver, spring gun, crossbow or longbow;

"lease" means a contract for exclusive use or possession of lands, buildings, installations or facilities within a provincial park for a period of time;

"Minister" means the Minister of Tourism;

"park warden" means a person appointed or holding office pursuant to section 10;

"provincial park" means

(a) any area of land established and maintained under this Act and the regulations as a recreational park, campground park, beach park, wildlife park, picnic ground park, resource park, park reserve, or any combination thereof,

(b) any land administered under an agreement entered into under the authority of paragraph 3(2)(b), or

(c) a provincial park continued under subsection 3(1),

and includes any land acquired for the purpose of development as a provincial park.

2. All provincial parks are dedicated to the people of the Province and others who may use them for their healthful enjoyment and education, and, subject to subsection 3(2), the provincial parks shall be maintained for the benefit of future generations in accordance with this Act and the regulations.

3(1) Subject to subsection (2), a provincial park in existence immediately prior to the coming into force of this act is continued as a provincial park.

3(2) The Lieutenant-Governor in Council

(a) may authorize the Minister to purchase or acquire any land, whether or not covered with water, for the purpose of development as a provincial park;

(b) notwithstanding any other Act, may authorize the Minister to enter into an agreement with

(i) any other Minister,

(ii) any Crown Commission,

(iii) any Crown Corporation,

(iv) any person,

(v) any municipality, or

(vi) any association,

for the administration as a provincial park of any land belonging to or under the administration of Her Majesty in right of the Province, any Crown Commission, any Crown Corporation, any person, any municipality or any association and lands so administered shall be deemed to be set apart as a provincial park and come within this Act and the regulations;

(c) may authorize the Minister to increase or decrease the area of any provincial park;

(d) may delimit any provincial park;

(e) may terminate the status of any provincial park;

(f) may authorize the Minister to dispose of any buildings, installations or improvements, or all or any part of the land included in a provincial park, as he sees fit; and

(g) may set aside as a park reserve any area of land held, acquired or set apart for the purpose of a provincial park;

but where the land to be set apart, purchased or acquired, added or withdrawn, delimited or disposed of has an area of less than twenty hectares, or has a real estate value of less than fifteen thousand dollars, the Minister may do such things as the Lieutenant-Governor in Council is authorized to do under this subsection.

4. The Minister may receive from any person by grant, gift, devise or bequest any real or personal property, or any interest therein, for the purpose of a provincial park.

5. Any reference to the Minister of Natural Resources in any document executed by the Minister of Natural Resources prior to June 17, 1972 shall, if the document provides for the establishment of or the operation of a provincial park, be deemed to be a reference to the Minister of Tourism.

6. For municipal purposes, any land set apart as a provincial park or added thereto, so long as it remains part of the provincial park, shall be deemed to be separated from any municipality of which it formed a part immediately before it became a provincial park or a part thereof.

7. For judicial purposes, any land set apart as a provincial park or added thereto shall continue to form part of the county of which it formed a part immediately before it became a provincial park or a part thereof.

8(1) The Minister is charged with the administration of this Act and the regulations.

8(2) Without limiting the generality of subsection (1), the Minister, or any person designated by him to act on his behalf, in respect of a provincial park, may

(a) construct and operate toilet, dressing room, picnic, camping, cooking, bathing, parking and other facilities for the convenience of the public,

(b) construct and operate restaurants, refreshment booths, shops and other facilities for the convenience of the public,

(c) construct and operate buildings, compounds, cages, pools and other facilities for the public display of fish and wildlife,

(d) construct, renovate, restore, repair and improve any building, structure or site in order to preserve its historical significance,

(e) make an agreement with any person with respect to any matter coming within the purview of this subsection,

(f) prescribe by erection, posting or other display of notices, the time or times of the day or year during which a provincial park or any part thereof is open or closed, as the case may be, for the use of the public,

(g) construct and operate recreation facilities he considers necessary for the convenience or benefit of the public.

8(3) The Minister may grant any licence, privilege, concession or lease with respect to a provincial park or any part thereof or any land, building, installation or facility therein, but such licence, privilege, concession or lease shall not extend beyond five years except with the approval of the Lieutenant-Governor in Council.

9. Except as provided under this Act and the regulations, no person shall use or occupy any land, building, installation or facility in a provincial park.

10(1) The Minister, or any person designated by him in writing to act on his behalf, may appoint any person to be a park warden.

10(2) Every police officer, as defined in the Police Act, and every member of the Royal Canadian Mounted Police is ex officio a park warden.

10(3) A park warden is charged with the maintenance and preservation of the public peace within a provincial park and has the powers, authority and immunities of a peace officer as defined in the Criminal Code, chapter C-34 of the Revised Statutes of Canada, 1970.

11(1) A park warden who has reasonable and probable grounds to believe that a vehicle, boat or other conveyance of any description has been used by or is in the possession of any person in violation of the provisions of this Act or the regulations may, without warrant, stop and search the vehicle, boat or other conveyance.

11(2) Where a park warden has reasonable and probable grounds to believe that any vehicle, boat, bicycle, aircraft, animal, material, firearm, implement or appliance has been or is being used by or is in the possession of any person in violation of the provisions of this Act or the regulations, he may seize the item.

11(3) Subject to subsection (4), anything seized pursuant to subsection (2) may be detained for a period of six months following the time of seizure or, if proceedings are instituted within the two months following seizure, until the proceedings are concluded.

11(4) Anything seized under subsection (2)

(a) upon application, shall be released to the owner thereof

(i) after the expiration of two months from the date of seizure, where no proceedings have been instituted, or

(ii) after a verdict of acquittal has been handed down, where proceedings have been instituted;

(b) shall be returned to the owner upon the Minister ordering its return, if it is not required for evidence in a court of law;

(c) shall be disposed of in accordance with subsection (5) where a conviction is obtained against a person committing an offence under this Act; or

(d) shall be deemed to be forfeited to the Crown where, after a period of six months from the date of seizure, no application has been made and no proceedings have been instituted, in which case the Minister may dispose of the item at public auction or in any manner and at such time as he considers fit.

11(5) Where a judge convicts a person of an offence against this Act, he shall order anything seized under subsection (2)

(a) to be returned to the owner as soon as practicable, or

(b) to be forfeited to the Crown, in which case it shall be disposed of at public auction or in such manner and at such time as the Minister considers fit.

12(1) Every person who fails to comply with or contravenes any provision of this Act or the regulations commits an offence and on summary conviction is liable to a fine of not less than one hundred dollars and not more than two hundred and fifty dollars, and in default is liable to imprisonment in accordance with subsection 31(3) of the Summary Convictions Act.

12(2) A park warden may arrest without warrant any person whom he finds committing an offence under this Act.

12(3) Where the Minister or any park warden has reasonable grounds for believing that any person has violated or is about to violate any provision of this Act or the regulations, or that the entry upon or remaining within a provincial park by any person may be detrimental to the safety of other park users or their enjoyment of the park and its facilities, he may, without notice or hearing, issue an order in writing prohibiting that person from entering upon or being within any provincial park specified in the order for a period specified therein, not to exceed three months.

12(4) Every person having knowledge of an order made under subsection (3) shall observe that order, and in the event the person is within a provincial park when the order is made, shall forthwith remove himself from the provincial park.

12(5) The Minister, or any person designated to act on his behalf, is authorized to prepare a certified copy of any record, permit, letter or other document, the production of which is not regarded by the Minister as being contrary to public policy, and any document purporting to be signed by the Minister or his designate shall be received as evidence of the contents thereof in any court in the Province without proof of office or of the signature thereon.

12(6) In a prosecution for contravening any provision of this Act or the regulations,

(a) the existence of a sign is prima facie proof that the sign was properly placed and maintained by the proper authorities, and

(b) evidence that the sign was in existence both before and after the conduct in question is prima facie proof that the sign was in existence at all material times,

without other or further proof thereof.

12(7) In a prosecution for contravening any provision of this Act or the regulations, where an act that the accused is proven to have done is alleged to have been done in a provincial park, the accused shall, in the absence of evidence to the contrary, be deemed to have done the act within the provincial park.

13. The Minister, or anyone designated by him to act on his behalf, may open for travel or close to travel any highway, road, trail or other area in a provincial park that is not under the administration and control of the Minister of Transportation.

14. The Lieutenant-Governor in Council may take measures he considers proper for the protection of flora in any provincial park.

15(1) Notwithstanding the Mining Act, all provincial parks are reserved by the Crown from prospecting, staking, mining and quarrying except as otherwise provided by the regulations.

15(2) Notwithstanding subsection (1), the Department may operate a quarry in a provincial park to provide quarriable substances needed to construct and maintain roads, buildings, installations or other facilities within provincial parks.

16(1) Notwithstanding the Fish and Wildlife Act and the regulations made thereunder, the Lieutenant-Governor in Council may make regulations

(a) prohibiting or regulating hunting, fishing and trapping in a provincial park, and respecting the setting aside of areas for hunting, fishing or trapping within a provincial park;

(b) prohibiting or regulating the possession, discharge, use or conveyance of a firearm in a provincial park.

16(2) The Lieutenant-Governor in Council may make regulations

(a) for the care, preservation, improvement, control and management of provincial parks;

(b) prohibiting or regulating prospecting, or the staking out of mining claims, the development of mineral interests and the working of mines or quarries in provincial parks;

(c) prohibiting or regulating the occupation of land within provincial parks;

(d) regulating the use of lands in provincial parks;

(e) prohibiting the erection of buildings or installations in provincial parks, or regulating the nature, cost, type of construction or location of buildings or installations that may be erected therein;

(f) prohibiting or regulating the conduct of persons using any building, installation, equipment or facility in a provincial park;

(g) prohibiting or regulating the erection, posting or other display of notices, signs, signboards and other advertising devices in provincial parks;

(h) prohibiting or regulating the use, setting and extinguishment of fires in provincial parks;

(i) prohibiting or regulating pedestrian, vehicular, boat or air traffic in provincial parks;

(j) providing for the issuing of permits to persons to enter and travel in provincial parks, to occupy campsites therein or to otherwise use any land, buildings, installations or facilities within a provincial park;

(k) prescribing the fees or rental payable for any permit given in respect of a provincial park, or for any use of land, buildings, installations or facilities within a provincial park for which a permit is not required;

(l) prohibiting or regulating trades, businesses, amusements, sports, occupations and other activities or undertakings in provincial parks;

(m) prescribing the maximum periods of stay of persons, vehicles, boats, vessels or aircraft in a provincial park;

(n) providing for the imposition and collection of fees for entrance into a provincial park of persons, vehicles, boats or aircraft;

(o) prohibiting or regulating the cutting and removal of forest products;

(p) prohibiting or regulating the use or keeping of domestic animals in provincial parks;

(q) prohibiting or regulating any activity carried on within any prescribed shore area or waters contiguous to a provincial park, to the extent that the activity could be prohibited or regulated under this Act if carried on within the limits of the provincial park;

(r) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

16(3). Any regulation under subsection (1) or (2) may be made applicable to all provincial parks or to any provincial park or to any part of a provincial park.

17. Where this Act or any regulation is contravened, in addition to any other remedy and to any penalty imposed, the contravention may be restrained by action at the instance of the Minister.

18. The Parks Act, chapter P-2 of the Revised Statutes, 1973 is repealed.

19. This Act or any provision thereof comes into force on a day to be fixed by proclamation.

ANNEX D

# CLASSIFICATION OF PROVINCIAL PARKS

By definition, parks may be considered areas set aside primarily for outdoor recreational purposes, in a natural environment setting and recreation may be defined as activity pursued in leisure time. Recreation covers a large variety of activities from organized sports to passive pursuits.

The provincial parks of New Brunswick are divided into seven classes. The class defines the main function of the park, and may or may not incorporate subsidiary uses. As an example, a park may be classed as a wildlife park, but may incorporate the functions of camping, picnicking, etc.

(1) Picnic Ground Provincial Parks
(2) Campground Provincial Parks
(3) Beach Provincial Parks
(4) Recreation Provincial Parks
(5) Wildlife Provincial Parks
(6) Resource Provincial Parks
(7) Marine Provincial Parks

## 1. PICNIC GROUND PROVINCIAL PARKS

Picnic ground parks are designed to meet the needs of the travelling public for rest areas and picnic facilities situated along the road system of the province.

In general, these areas are small in size, varying from one to twenty-five acres.

Picnic grounds provide the facilities of parking, tables, potable water and toilet facilities. They are not intended to provide overnight camping, but to provide organized picnic sites.

Picnic grounds may be located to provide viewing sites of scenic attractions of the natural landscape.

No fee is charged for the use of picnic grounds.

## 2. CAMPGROUND PROVINCIAL PARKS

Campground parks are designed to meet the needs of resident and non-resident campers for overnight campsites.

In general, campgrounds vary in size up to 300 organized campsites.

Campgrounds are to provide the facilities of parking, campsites, tables, potable water and toilets.

Supervision of the campgrounds is essential, and a camping area permit is required. A daily fee is charged, and a maximum stay of fourteen days is allowed during the period June 15th to September 15th.

3. BEACH PROVINCIAL PARKS

Beach Parks are designed to meet the need of the public for bathing and swimming areas. They are usually developed in conjunction with picnic grounds, but the prime functions are bathing and swimming.

Beaches are designed to provide the facilities of safe beach, change houses, tables, potable water and toilets.

4. RECREATIONAL PROVINCIAL PARKS

Recreational parks are designed to provide the full range of picnic grounds, campgrounds and beaches in one park.

Recreational parks should provide the full range of recreational activities that can be incorporated on the site. The larger parks may include both summer and winter recreational activities.

5. WILDLIFE PROVINCIAL PARKS

Wildlife parks are designed primarily to provide a public display of animals and birds native to the Province of New Brunswick. They may be developed in conjunction with picnic grounds, campgrounds or beaches.

6. RESOURCE PROVINCIAL PARKS

Resource parks are designed as large, multiple-use park areas. They are visualized as having an area of over 5,000 acres. The primary function of these parks is to set aside large blocks of land for the enjoyment of outdoor recreation in a natural environment. However, only a small portion of the total area will be developed formally. Fishing is to be allowed on a controlled basis. Hunting is not to be allowed except under strict control. The harvesting of natural resources will be allowed under controlled supervision, and is intended to demonstrate the continuing use of renewable resources. The interpretive program is to be an integral part of the park function.

7. MARINE PROVINCIAL PARKS

Marine Parks are areas that can be reached primarily by boat and have no road access. They are designed to preserve the natural environment of marine and shore fauna and flora. Primitive facilities will be provided and potable water may not be available.

ANNEX E

EXCERPT FROM PARK SYSTEM PLAN REGARDING USES OF A CLASSIFICATION SYSTEM.

1. Park designations can be used in conjunction with public advertising to alert potential visitors to the facilities contained herein.

2. Park classificatin can be used as a form of system-wide zoning established after careful study of the highest and least use of the site to assure optimum development of the site.

3. Classification can be used as an effective means of evaluating whether the system is meeting Departmental goals and objectives.

ANNEX F

# EXISTING CONCESSIONS

| Park Class | Concession | Concession Class | Park |
|---|---|---|---|
| ■ | Canteen | F | Les Jardins |
| ■ | Golf Pro | R | Mactaquac |
| | Licensed Food/Beverage | F | |
| | Campers Store | O | |
| | Marine Canteen | F | |
| | Store Land | O | |
| | Marine Canteen Land | F | |
| | Club House | R | |
| | Several Properties | M | |
| △ | Campground | A | Woolastook |
| | Wildlife Park/water-slide | R | |
| ■ | Campground | A | Lake George |
| ■ | Canteen | F | Grand Lake |
| ■ | Canteen | F | Sunbury-Oromocto |
| | Ball Field | R | |
| ■ | Canteen | F | Oak Bay |
| ■ | Canteen | F | New River Beach |
| ■ | Golf Pro | R | Herring Cove |
| | Licensed Food/Beverage | F | |
| ■ | House | M | Anchorage |

| Park | Park Class | Concession | Concession Class |
|---|---|---|---|
| Sugarloaf | ■ | Ski Shop | R |
| | | Ski School | R |
| | | Recreation Centre* | R |
| Youghall | ★ | Marina | R |
| Teagues Brook | | Recreation Area | R |
| Caraquet | ▲ | Campground | A |
| Val Comeau | ■ | Canteen | F |
| Middle Island | ★ | Canteen | F |
| Enclosure | ■ | Canteen | F |
| Jardine | ■ | Campground | A |
| Parlee Beach | ■ | Summer Theatre | R |
| | | Canteen (East) | F |
| | | Canteen (West) | F |
| | | Campground | A |
| Steeves Mountain | ▲ | Campground | A |
| The Rocks | ■ | Canteen/Gift Shop | O |
| Camp Paucobac | | Camp/Recreation Area | AR |
| Salmon River | | House | M |

* not finalized

Legend

△ Wildlife Parks
★ Beach Parks
● Rest Areas
■ Recreation Parks
▲ Campground Parks
[illegible] Resource Parks

A Accommodation
F Food Service
R Recreation, Attraction
T Transportation
O Other Tourism Related
Non-[illegible]ted

ANNEX G

EXISTING PARK CONCESSIONS

| | RECREATION PARKS | BEACH PARKS | CAMPGROUND PARKS | WILDLIFE PARKS | RESOURCE PARKS | REST AREAS | NON PARK TOURISM PROPERTY |
|---|---|---|---|---|---|---|---|
| RECREATION, ATTRACTION (R) | Ski Shop<br>Ski School<br>Recreation Centre<br>Summer Theatre<br>Golf Pro (2)<br>Ball Field<br>Bandstand | Marina | | Wildlife Park/<br>Waterslide | | | Recreation Area<br>Camp/Recreation Area<br>Club House |
| FOOD SERVICE (F) | Canteen (10)<br>Licensed Food/ Beverage (2) | Canteen | | | | | |
| ACCOMODATION (A) | Campground (3) | | Campground (3) | Campground | | | |
| TRANSPORTATION (T) | | | | | | | |
| OTHER TOURISM RELATED (O) | Canteen/Gift Shop<br>Campers Store | | | Canteen/Gift Shop | | | |
| NON TOURISM RELATED (H) | House | | | | | | House |

ANNEX H

PROPOSED POLICY FRAMEWORK

| | RECREATION PARKS | BEACH PARKS | CAMPGROUND PARKS | WILDLIFE PARKS | RESOURCE PARKS | REST AREAS | NON PARK TOURISM PROPERTY |
|---|---|---|---|---|---|---|---|
| ECREATION, ATTRACTION (R) | Allow full range | Allow full range | Allow only natural resource based, outdoor recreation | Allow only natural resorce based, outdoor recreation | Allow only natural resource based, outdoor recreation | Discourage | Not covered by policy |
| FOOD SERVICE (F) | Allow full range | Allow canteens and restaurants | Allow canteens and picnic sites only | Allow canteens and picnic sites only | Allow canteens and picnic sites only | Discourage | Not covered by policy |
| ACCOMMODATION (A) | Allow full range | Discourage | Allow campgrounds only | Allow campgrounds only | Allow campgrounds only | Discourage | Not covered by policy |
| TRANSPORTATION (T) | Allow full range | Allow water based only | Allow tours | Allow tours | Allow tours | Discourage | Not covered by policy |
| OTHER TOURISM RELATED (O) | Allow full range | Allow water based only | Allow essential services only | Allow essential services only | Allow essential services only | Allow static displays | Not covered by policy |
| NON TOURISM RELATED(N) | Discourage | Discourage | Discourage | Discourage | Discourage | Discourage | Not covered by policy |